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**SUPREME COURT OF THE UNITED STATES**

CHARLES ELMORE CROPLEY  
CLERK

**OCTOBER TERM, 1950**

**No. 399**

**JACK H. BREARD,**

*vs.*

*Appellant,*

**CITY OF ALEXANDRIA**

**MOTION BY APPELLEE TO DISMISS APPEAL  
UNDER RULE 12, PARAGRAPH 3 OF THE RULES  
OF THE SUPREME COURT OF THE UNITED  
STATES.**

Now comes the City of Alexandria, appellee in the above cause, and respectfully moves to dismiss the appeal to the Supreme Court of the United States filed herein by appellant on the following ground, as authorized by Rule 12 of Paragraph 3 of the rules of said Court:

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That the appellant, Jack H. Breard, did not exhaust all remedies open to him in the State Court; that Article 911 of the Code of Practice of Louisiana gives to any litigant before the Supreme Court of Louisiana the right to apply for a rehearing within fifteen calendar days after rendition of a judgment; that Article 912 of the Code of Practice

has the following provisions with reference to said rehearings:

"912. Petition for rehearing.—In the interval between the day on which the judgment is rendered and that on which it becomes final, a party dissatisfied with the judgment may apply to the court for a new hearing in the cause, and for this purpose shall present a petition, in which he shall state substantially the reasons for which he thinks the judgment erroneous, and shall cite the authorities in support of his opinion."

That the appellant, Jack H. Breard, did not apply for a rehearing within the required delays; that he did not file any petition in the Supreme Court of Louisiana asking for a rehearing and pointing out the reasons why he considered the judgment of that Court to be erroneous; that he should have exhausted all remedies in the State Court before making application for an appeal to the Supreme Court of the United States.

WHEREFORE, Appellee Prays that the appeal to the Supreme Court of the United States by appellant, Jack H. Breard, be dismissed for the reasons above set forth.

Respectfully submitted,

(S.) FRANK H. PETERMAN,  
Attorney for City of Alexandria, Appellee,  
303 Sixth Street, Alexandria, Louisiana.